

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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DIANE D. PLUNK, )

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Plaintiff, )

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vs. )                    Civil No. 05-2443-B/P

)

SHELBY COUNTY GOVERNMENT, )

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Defendant. )

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**REPORT AND RECOMMENDATION**

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On July 25, 2006, the court entered an Order Granting Plaintiff's Counsel's Motion to Withdraw as counsel. In that order, the court directed Kathleen Caldwell, plaintiff's former counsel, and the Clerk of Court to send a copy of the court's order to Mike Plunk, plaintiff's surviving spouse/personal representative. The order further provided as follows:

plaintiff, through her representative, within thirty (30) days from the date of this order, shall notify the court in writing whether plaintiff intends to proceed with this litigation, and if so, provide the name, address and telephone number of her new attorney. . . . The plaintiff is warned that if she fails to comply with this order, the court will enter an order for plaintiff to show cause why her case should not be dismissed for failure to prosecute.

Plaintiff did not comply with the court's July 25 order, and as a result, on September 8, 2006, the court entered an order directing plaintiff through her representative to show cause within

eleven (11) days why her case should not be dismissed for failure to prosecute. The court directed the Clerk of Court to send a copy of the show cause order, via first class U.S. Mail postage pre-paid, to the plaintiff's representative at the following addresses:

Mr. Mike Plunk  
629 Julianne Street  
Lepanto, AR 72354

Mr. Mike Plunk  
P.O. Box 686  
Lepanto, AR 72354

Finally, the court stated that "Plaintiff and/or her representative is warned that failure to comply with this show cause order shall result in a recommendation to the District Judge that her complaint be dismissed with prejudice."

To date, there has been no response to the court's July 25 order or the September 8 show cause order, and despite repeated warnings that failure to comply with the court's orders would result in a dismissal of the case, the court has not been provided with any indication that plaintiff and/or representative intends to continue prosecuting this case. For these reasons, the court recommends that the case be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(b).

The Clerk of Court shall send a copy of this Report and Recommendation, via first class U.S. Mail postage pre-paid, to the plaintiff's representative at the following addresses:

Mr. Mike Plunk  
629 Julianne Street  
Lepanto, AR 72354

Mr. Mike Plunk  
P.O. Box 686  
Lepanto, AR 72354

Respectfully Submitted.

s/ Tu M. Pham

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TU M. PHAM

United States Magistrate Judge

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October 4, 2006

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Date

**NOTICE**

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN TEN (10) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN TEN (10) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.